

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

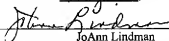
Application No.: 10/629,114 Confirmation No.: 6987
Applicant : Harold Carrison
Filed : July 29, 2003
TC/A.U. : 3763
Examiner : Mendez, Manuel A.
Title : Apparatus and Method for Treating Intravascular Disease
Docket No. : 1001.1659101
Customer No. : 28075

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Mail Stop PETITION
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

CERTIFICATE FOR ELECTRONIC TRANSMISSION: The undersigned hereby certifies that this paper or papers, as described herein, are being electronically transmitted to the U.S. Patent and Trademark Office on this 4th day of August, 2006.

By _____


JoAnn Lindman

Dear Sir:

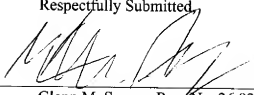
Applicants hereby petition the USPTO to withdraw the holding of abandonment in the above-captioned application and to set a new time period for applicant to complete the reply pursuant to MPEP 714.03. The basis for this Petition is set forth in the attached STATEMENT IN SUPPORT OF PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed herewith.

This petition is timely filed within two months of the date of the mailing of the Notice of Abandonment. No fee is required in support of such petition. Please charge any deficiencies or credit any overpayment in the enclosed fees to Deposit Account No. 50-0413.

Respectfully Submitted,

Date:

Aug. 4, 2006



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Tel: (612) 677-9050

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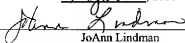
STATEMENT IN SUPPORT OF PETITION TO WITHDRAW HOLDING OF

ABANDONMENT

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By


JoAnn Lindman

Dear Sir:

The undersigned hereby submits the following statement of facts in support of the attached PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed herewith.

1. The Notice of Abandonment mailed July 31, 2006 cites as the reason for abandonment, "Applicants failure to timely file a proper reply to the Office Action mailed on 04 January 2006." A search of the file jacket and docket records indicate that no such Office Action had been received. Further, the image file wrapper for this

application on PAIR indicates that no such Office Action was mailed. Thus the factual basis for the Notice of Abandonment is in error.

2. As indicated in PAIR, the most-recent Office Action on this application was a non-final Office Action mailed August 11, 2005. As indicated in PAIR, the USPTO received a reply to this Office Action on January 4, 2006. As an indication of the *bona fide* nature of the response, each of the matters raised by the examiner in the August 11, 2006 Office Action (i.e. election/restriction, §102 rejections, and §103 rejections) received specific attention in the January 4, 2006 response.

As indicated in the transaction history tab of PAIR, the amendment of the January 4, 2006 response was docketed as informal or non-responsive. The MPEP provides three options for treating an amendment that is considered not fully responsive to a non-final Office Action:

(A) accepting the amendment as an adequate reply to the non-final Office action to avoid abandonment under 35 U.S.C. 133 and 37 CFR 1.135;

(B) notifying the applicant that the reply must be completed within the remaining period for reply to the non-final Office action (or within any extension pursuant to 37 CFR 1.136(a)) to avoid abandonment; or

(C) setting a new time period for applicant to complete the reply pursuant to 37 CFR 1.135(c).

MPEP 714.03.

A review of the electronic file wrapper on PAIR show that no communication notifying the applicant that the reply must be completed within the remaining period for reply to the non-final Office Action or setting a new time period for applicant to complete the reply was mailed. Further, as evidenced by the lack of any subsequent Office Action or Notice of Allowability, the reply was not accepted as an adequate reply.

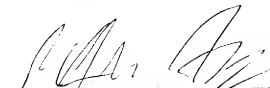
A communication from the USPTO was mailed March 23, 2006 that stated that "[t]he reply filed on January 4, 2006 is not fully responsive to the prior Office action because of the following omission(s) or matter(s)." However, this communication contained no notification that the reply must be completed within the remaining time period for reply to the non-final Office Action nor did it set a new period for completion of the reply.

As the period set forth in 37 C.F.R. § 1.134 has lapsed, the option of notifying the applicant that the reply must be completed within the remaining period for reply has been foreclosed. The options of accepting the amendment as an adequate reply to the non-final Office action or setting a new time period for applicant to complete the response pursuant to 37 C.F.R. § 1.135(c) are still available. In the attached petition applicants have respectfully requested the latter option.

Respectfully Submitted,

Date:

Aug 9, 2006



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